

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the above amendments and the following remarks, is respectfully requested.

Claims 1-4, 6-18, and 20-31 are pending in this application. By this amendment, Claims 1-4, 6-18 and 21-31 have been amended. As these amendments are directed to formalities and they do not raise new issue, it is respectfully submitted that no new matter has been added.

In the outstanding Office Action, Claims 1-4, 6-18 and 20-31 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; Claims 1-4, 6-12 and 21-32<sup>1</sup> were rejected as being directed towards non-statutory subject matter because they are software per se; and Claims 13-18 and 20 were rejected under 35 U.S.C. § 101; Claims 1-4, 6, 8-16, 20-25 and 27-31 were rejected under 35 U.S.C. § 102(a) and (e) as anticipated by Capek et al. (U.S. Patent No. 7343312 B2, hereinafter “Capek”); and Claim 7, 17, 18 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Capek.

Applicant hereby expresses appreciation for the grant of a personal interview with the Supervisory Patent Examiner (SPE) on July 22, 2009 and the grant of a telephonic interview with the Examiner on July 29, 2009.

During the interview with the SPE on July 22, 2009 arguments were presented consistent with the arguments to follow addressing each ground of rejection made in the outstanding Office Action.

During the telephonic interview with the Examiner on July 29, 2009, arguments were presented that the rejection of the claims in the outstanding Office Action was not proper because it failed to take into consideration the amendatory language added to the claims

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<sup>1</sup> Claim 32 is not pending in this application.

“other than meeting attendees and meeting locations”. It was requested that because the language of independent Claims 1, 13 and 21 was not considered in the application of Capek that the next Office Action should not be made final. The Examiner agreed and stated:

However, since the Examiner did not reject the negative limitation with prior art, a non-final Office Action will be issued upon receipt of Applicant’s response so long as the newly amended claims do not change the scope of the invention from the prosecuted claims.

The rejection of Claims 1-4, 6-18 and 20-31 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement is respectfully traversed. The Office Action asserts that support is not found in the specification for the claimed limitations “other than meeting attendees and meeting locations”. Applicant respectfully disagrees. In ex parte Parks, 30 USPQ 2d 1234 (Bd. Pat. App. & Int. 1993) the Board of Patent Appeals and Interferences stated:

The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention on any ground is always upon the Examiner. In *re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In rejecting a claim under the first paragraph of 35 U.S.C. § 112 for lack of adequate descriptive support, it is incumbent upon the Examiner to establish that the originally-filed disclosure would not have reasonably conveyed to one having ordinary skill in the art that an appellant had possession of the now claimed subject matter. *Wang Laboratories, Inc. v. Toshiba Corp.*, 993 F.2d 858 26 USPQ2d 1767 (Fed. Cir. 1993). Adequate description under the first paragraph of 35 U.S.C. § 112 does not require literal support for the claimed invention. *In re Herschler*, 591 F.2d 693, 200 USPQ 711 (CCPA 1979); *In re Edwards*, 568 F.2d 1349, 196 USPQ 465 (CCPA 1978); *In re Werthein* 541 F.2d 257, 191 USPQ 90 (CCPA 1976). Rather, it is sufficient if the originally-filed disclosure would have conveyed to one having ordinary skill in the art that an appellant had possession of the concept of what is claimed. *In re Anderson*, 471 F.2d 1237, 176 USPQ 331 (CCPA 1973).

Thus, the Board found:

Clearly, the observation of a lack of literal support does not, in and of itself, establish a *prima facie* case for lack of adequate descriptive support under the first paragraph of 35 U.S.C.

§ 112. *In re Herschler, supra; In re Edwards, supra; In re Wert heim, supra.*

Applicant has provided a description of heterogeneous resources in the specification.

For example, the specification at page 5, states:

Heterogeneous resources 14 include video conference resources 18, audio conference resources 25, network resources 38, catering resources 48, information technology resources 50 and conference room resources 52. Video conference resources 18 include MCU 20, gateway 22 and endpoint 24 devices that support videoconferencing between distal locations. Audio conference resources 26 include bridges 28, Voice over Internet Protocol (“VoIP”) servers 30, gateways 32, conventional phones 34 and VoIP phones 36. Network resources 38 included shared application server 40 that allows display at distal locations of an application, such as PowerPoint, e-mail server 42, instant message server 44 and network bandwidth 46. Heterogeneous resources 14 may include internal resources available to a business or external resources purchased as a service from third parties. For instance, audio bridges 28 are available from a number of telephone companies through dial-up numbers and catering services are available from outside dining services. In addition, other types of heterogeneous resources may be included based on the needs of scheduled or anticipated meetings.

Thus, as can be seen from the quotation above, heterogeneous resources does not include meeting attendees and meeting locations. That is, meeting attendees and meeting locations are not described as included in heterogeneous resources. Thus, the originally-filed disclosure conveys to one having ordinary skill in the art that Applicant had possession of the concept of heterogeneous resources not including meeting attendees and meeting locations. See *ex parte Parks*, as quoted above. Furthermore, as clearly held by the Board, a lack of literal support does not, in and of itself establish a *prima facie* case for lack adequate descriptive support under the first paragraph of 35 U.S.C. § 112.

Finally, it is respectfully submitted that Applicant has the right to be his own lexicographer and has clearly provided a description of heterogeneous resources in the disclosure.

Accordingly, it is respectfully requested that this rejection be reconsidered and withdrawn.

The rejection of Claims 1-4, 6-12 and 21-31 as being directed toward non-statutory subject matter because they are software per se is respectfully traversed. Each of independent Claims 1, 13 and 21 includes recitation of a network, a user interface, a resource properties database and a scheduled events database. One of ordinary level of skill in the art would recognize that each of these recited features inherently includes apparatus. That is, a network includes the various devices connected together to form a network, a user interface includes devices to permit users to input data into a system, and databases include storage devices. Furthermore, the block diagram of Figures 1A and 1B includes devices such as conventional phones 34 and Voice over Internet Protocol (VoIP) phones 36. Thus, one of ordinary level of skill in the art would recognize that the block diagram of Figures 1A and 1B include apparatus structures. Accordingly, Claims 1-4, 6-12 and 21-31 are in compliance with M.P.E.P. § 2106.01I. Thus, it is respectfully requested that this rejection be reconsidered and withdrawn.

The rejection of Claims 13-18 and 20 under 35 U.S.C. § 101 is respectfully traversed. Claim 13 includes recitation of a network, a user interface, a scheduled events database, and a resource properties database. For the reasons pointed out above, each of these devices inherently includes apparatus. Therefore, Claim 13 and the claims dependent thereon are tied to another statutory class. Accordingly, it is respectfully requested that this rejection be reconsidered and withdrawn.

Independent Claims 1, 13 and 21 have previously been amended to clarify that heterogeneous resources do not include meeting attendees and meeting locations. Each claim now recites, in part, “heterogeneous resources other than meeting attendees and meeting locations.” This amendment clarifies that heterogeneous resources do not include the

monitoring of the availability of meeting location rooms such that a room is reserved for a particular person until a determined number of hours before the scheduled meeting time at which point it becomes available for assignment to anyone as described in the Advisory Action referring to Capek column 9. Thus, for the reasons argued below with regard to Claims 1, 13 and 21 individually, Capek fails to describe the claimed subject matter of Claims 1, 13 and 21.

Independent Claim 1 recites “wherein the availability engine is further operable to: identify resources of the priority list that are unavailable to satisfy meeting constraints due to a schedule use; and monitor the unavailable resources for subsequent availability to satisfy the meeting constraints.” It is respectfully submitted that these features are neither disclosed by nor rendered obvious by Capek.

The Office Action asserts the Capek teaches “identifying resources of the priority list that are unavailable to satisfy meeting constraints due to a schedule use; and monitoring the unavailable resources for subsequent availability to satisfy the meeting constraints (column 7, lines 40-49 - availability is monitored for optimization of the schedule).” Applicant respectfully disagrees.

Capek states “[t]he constraints may include such parameters as meeting duration, earliest date, latest date, mandatory attendees, participant availability, preferred time, preferred location, the meeting must occur by a specified time, last for a determined duration, must occur before a specified event, there is a requirement to schedule a recurring meeting, or that the scheduling request is not negotiable.”<sup>2</sup> That is, contrary to the assertions in the Office Action, Capek fails to describe in column 7, lines 40-49 an availability engine that is operable to identify resources of the priority list that are unavailable to satisfy meeting constraints due to a schedule use, or monitor the unavailable resources for subsequent

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<sup>2</sup> Column 7, lines 41-48.

availability to satisfy the meeting constraints. Therefore, Capek fails to describe the features of Claim 1 quoted above.

Claim 13 recites “limiting access to predetermined heterogeneous resources according to one or more required authorizations.” It is respectfully submitted that these features are neither disclosed by nor rendered obvious by Capek.

The Office Action asserts that Capek teaches “limiting access to predetermined heterogeneous resources according to one or more required authorizations (column 9, lines 60-67 - attendees having weighting factors indicating who is more important to the scheduling process.” Applicant respectfully disagrees.

Capek states “[i]n addition in the process, the attendees may have weighting factors so that the system can determine who is most important in the scheduling optimization process; the meeting locations may have weighting factors so that the system can determine which locations are most important in the scheduling optimization process.”<sup>3</sup> There is no reference in Capek column 9, lines 61-67 or elsewhere of limiting access to predetermined heterogeneous resources accordingly to one or more required authorizations as recited in Claim 13. The Office Action appears to recognize this, because the Office Action refers to attendees rather than heterogeneous resources as having weighting factors indicating who is more important to the scheduling process in Capek.

Claim 21 recites “an access controller interfaced with the availability engine and the resource properties database, the access controller operable to restrict scheduling of one or more resources having limited access properties.” It is respectfully submitted that these features are neither disclosed by nor rendered obvious by Capek.

The Office Action asserts that Capek teaches “an access controller interfaced with the availability engine and the resource properties database, the access controller operable to

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<sup>3</sup> Column 9, lines 61-67.

restrict scheduling of one or more resources having limited access properties (column 4, lines 19-32- resource availability).” Applicant respectfully disagrees.

Capek states “[l]ikewise, variables may be weighted according to the size of the meeting room, the availability of A/V audio/visual equipment (e.g., stereo sound systems or projectors), the acoustical properties of the meeting room, or the cost of the meeting.”<sup>4</sup>

Capek adds “weighting variables is dynamic and may change over time, and may be different for different meetings.”<sup>5</sup> Finally Capek states “[t]hus, for some meetings the proximity of the location may be the most important attribute, while for others the availability of a particular piece of equipment in a meeting room may be important.”<sup>6</sup> Capek fails to describe an access controller interfaced with the availability engine and the resource properties database as recited in Claim 21. Capek further fails to describe the access controller operable to restrict scheduling of one or more resources having limited access properties as further recited in Claim 21.

In the Response to Arguments section, the Office Action asserts:

As stated previously, the claims, given the broadest reasonable interpretation read on scheduling of attendees. Further, the specification does not preclude the resources from including attendees.

Applicant respectfully disagrees.

Each of Claims 1, 13 and 21 expressly excludes meeting attendees and meeting locations. It is further respectfully submitted that the Office Action cannot ignore recitations in the claims. M.P.E.P. § 2131 requires “to anticipate a claim, the reference must teach every element of the claim.”

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<sup>4</sup> Column 4, lines 19-23.

<sup>5</sup> Column 4, lines 26-28.

<sup>6</sup> Column 4, lines 28-32.

Therefore, the Office Action has failed to make out a *prime facie* case of anticipation because Capek fails to anticipate these claims by teaching every element of the claims as required in M.P.E.P. § 2131.

It is respectfully submitted that the above referenced portions of Capek refers to general weighted variables that apply to all resources, that the variables are dynamic and may change over time, and that the variables may be different for different meetings. There is no description in Capek of one or more resources having limited access properties. That is, Capek does not differentiate one or more resources that have limited access properties from other resources.

It is respectfully submitted that dependent Claims 2-4, 6-12, 14-18, 20 and 22 to 31 are patentable at least for the reasons argued above with regard to the claims from which they depend.

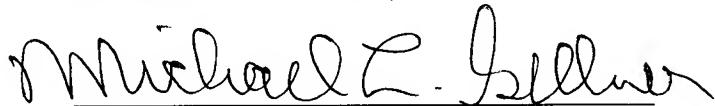
Accordingly, it is respectfully requested that the rejections of Claims 1-4, 6-18, and 20 to 31 be reconsidered and withdrawn, and that Claims 1-4, 6-18 and 20-31 be found allowable.

Consequently, for the reasons discussed in detail above no further issues are believed to be outstanding in the present application and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below-listed telephone number.

Respectfully submitted,

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